IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.20017 of 2003

Between:

U. Hanumanth Rao S/o Siddappa, 56 years,
R/o 148-74, Chudi Bazar, Post-Begum bazar, Hyderabad-12.

...PETITIONER

AND

1 The Industrial Tribunal-II, Rep by Chairman,
Chandravihar Building, 2nd Floor, MJ Road, Hyderabad-1.
2 The Depot Manager, A.P.S.R.T.C.,
Hakimpet Depot, RR District,
Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent and issue and appropriate writ, order or direction, particularly one in the nature of Writ of Certiorari and quash the Award passed by the 1st respondent in ID No. 32 of 2000, dated 22.04.2003, published on 25.07.2003, holding the same as illegal, unjust, contrary to law and perverse and grant the relief of reinstatement with all other attendant benefits and back wages.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.20017 of 2003

ORDER:

Heard both sides.

At the request from both sides, the main Writ Petition itself is taken up for disposal.

The petitioner, who has been working as conductor with the second respondent, files this Writ Petition *inter alia* seeking to assail the null award passed by the first respondent in I.D.No.32 of 2000, dated 22.04.2003, as published in the Gazette on 25.07.2003 as bad, illegal and void.

The case of the petitioner, in brief, is that having joined service on 05.11.1979, he has got a very good record. However, he was sought to be removed by the orders dated 19.08.1999 in view of certain allegations with regard to the irregularities found on his part during the inspection and check made by the officials on 17.02.1999, while he was conducting the bus on route from Hakimpet to Afzalgunj. On the basis of the same, disciplinary proceedings were initiated by issuing a charge sheet, wherein, it was stated that the petitioner has collected Rs.2.50 ps from a lady passenger who boarded the bus at JBS and bound for DBR Mill, ex-stages 9

to11/12 and re-issued ticket of Rs.3.50 ps denomination, which was already sold out and accounted in the SR and for having failed to collect the fare and issue tickets to two individual passengers found travelling without tickets, who boarded the bus at Bata and bound for Afzalgunj,

ex-stages 10 to 16 and failed to complete ticket issues within one fare stage. On conducting domestic enquiry, the petitioner was removed from service, whereupon after exhorting the remedies, he invoked the provisions of the Industrial Disputes Act, 1947 ('the Act' for brevity) and sought a reference. Thereafter, this matter was taken up as I.D.No.15 of 2002 on the file of the first respondent herein. During the course of the hearing and after filing the pleadings on both sides, it was held that the domestic enquiry, which was held, found to be not vitiated. Therefore, restricting the consideration of the case under Section 11-A of the Act, the first respondent ultimately found that having regard to the allegations, which in fact amount to misappropriation also, it was held that the petitioner was not entitled to any relief.

Sri A.K.Jayaprakash Rao, the learned counsel appearing for the petitioner submits that during the course of the enquiry before the first respondent, a circular was sought to be placed reliance to show as to when and where the ticket issue completion has to be done. However, the same was rejected only on the ground that since the allegation denies the very existence of issuance of tickets there of.

However, it is now pointed out in the counter-affidavit filed in this Writ petition by the respondents, the issuance of a circular.

Sri V.T.M.Prasad, the learned standing counsel for the Corporation sought to

repel the contentions and contends that having regard to the nature of the allegations and the findings as arrived at and especially when the domestic enquiry was held to be not vitiated, there is no warranting circumstance to interdict the award.

Considering the submissions made and on perusal of the material available on record, the only question that falls for consideration is, whether the validity of the domestic enquiry is not being under dispute, and the punishment imposed is commiserating to the gravity of the offence?

There is no dispute to the fact that the petitioner was working as conductor and when the surprise check was conducted, he was found with certain irregularities, which also included the non-completion of the ticket issue, for which, the petitioner sought to place reliance on a circular, which was initially denied before the first respondent but the same was accepted later. However, now, in view of the specific allegation made in the counter-affidavit to show the existence of the circular, which form basis of this case, no blame as such can be made nor anything can be attributed to the petitioner herein. Be that as it may, this court cannot go into the correctness of the enquiry proceedings and circular or even the findings arrived at. But on a total analysis of the circumstances and the allegations as made against him, the punishment of removal of the petitioner, apparently do not commensurate the gravity of the offence and is exorbitant. In the circumstances, it is to be held that the same is suffice in the interest of justice to order reinstatement of the petitioner without back wages.

In the circumstances, the Writ Petition is allowed and the impugned award

dated 22.04.2003 is set aside, directing the respondents to reinstate the petitioner to the service. The petitioner is entitled to continuity of service with all the attendant benefits, except back wages.

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(B.PRAKASH RAO, J)

4th February 2005

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the fourth day of February 2005.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1 The Chairman, Industrial Tribunal-II,
Chandravihar Building, 2nd Floor, MJ Road, Hyderabad-1.
2 The Depot Manager, A.P.S.R.T.C.,
Hakimpet Depot, RR District,
Hyderabad.

3 Two CD copies.